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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No. 328 of 1995
Date of decision: 3.4.2007

The Commissioner of Income-Tax, Jalandhar ...Petitioner

Versus

M/s Guru Nanak Mercantile Company, Jalandhar ...Respondent

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Sanjiv Bansal, Advocate for the revenue.

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RAJESH BINDAL, J.

Following question of law had been referred for opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar arising out of its order dated 22.2.1993 passed in I.T.A.No.531/ASR/1989, in respect of the assessment year 1978-79:

> "Whether on the facts and in the circumstances of the case, the Tribunal is right in law in cancelling the penalty imposed u/s 271(1)(c) of the Income Tax Act, 1961?"

While dealing with the issue in the quantum proceedings in ITR No.221 of 1995 (**The Commissioner of Income-tax, Jalandhar Vs. M/s Guru Nanak Mercantile Company, Jalandhar)** vide our spearate judgment delivered today, the issue has been answered in favour of the revenue and against the assessee. As in the present case, the Tribunal had not gone into the merits of the controversy regarding leviability of penalty and had set aside the penalty only on the ground that in quantum appeal, the

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matter had been decided in favour of the assessee, we deem it appropriate to remit the matter back to the Tribunal to deal with the issue on merits.

The reference is disposed of, accordingly.

(Rajesh Bindal)
Judge

April 03, 2007 **(M.M.Kumar)**
Pka **Judge**